IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2647 OF 2004

M/s. Rajnikant Traders ... Petitioner

versus

M/s. Noble Aluminium Depot

and another ... Respondents

...

Mr. Jayesh Bhatt, for the Petitioner.

Mr. S.V. Vora, for Respondent No. 1.

Mr. A.S. Gadkari, A.P.P., for the State.

...

CORAM : A.M.KHANWILKAR,J.

10th January 2004

P.C.:

. Heard Counsel for the parties. The only argument canvassed before this Court is that the cheques in question were dishonoured on 16th August 2002 and no legal notice was sent within the statutory period. To get over this deficiency, it is vaguely asserted in the complaint, para 5, that the cheques were dishonoured on 4th October 2002 so as to justify

the legal notice sent to the accused on 14th October 2002. All these aspects are matter for trial having regard to the stand taken by the Respondent that they learnt about the dishonour of cheques through their Bankers only on 4th October 2002 which stand is supported by the communication sent by the complainant's banker on 20th October 2002. Whether the complainant was made known about the dishonour of cheques on 4th October 2002 or earlier point of time is matter of evidence, which will have to be adduced at the time of trial and cannot be the basis for quashing of the complaint. Hence, dismissed.

(A.M.KHANWILKAR,J.)